

Remarks/Arguments

This paper is submitted responsive to the office action mailed August 1, 2008. Reconsideration of the application in light of the accompanying remarks and amendments is respectfully requested.

Turning to the Office Action, the Examiner rejected claims 1-3, 5-7, 15-21, 23-25, 30-33 and 42-49 as obvious over Pierce in view of Bramstedt.

As it relates to independent claim 1, reconsideration is requested. Claim 1 requires that the insert have a back surface opposite to the contact surface, and a jaw attachment member on the back surface.

The Examiner concedes that Pierce does not disclose the jaw attachment member on the back surface, and supplies this instead from Bramstedt. In making this rejection, the Examiner states that Pierce teaches a jaw attachment member on the back surface (Fig. 6, where 30 matches up with 46). It is noted, however, that this interpretation ignores the requirement from claim 1 that the back surface be opposite to the contact surface. A review of Pierce shows a completely incongruent structure, and certainly the surface of Pierce referred to by the Examiner is not opposite to the contact surface of the Pierce device. The Examiner's reliance on Bramstedt does not cure this situation, and it is not at all explained even how one would combine the very different devices of Pierce and Bramstedt. In referring to Bramstedt, the Examiner merely mentions Figure 2, and does not discuss the fact that Bramstedt teaches a metal insert in metal jaws for holding a needle for suturing. This is

totally distinct from the structure of Pierce. Further, it is submitted that there is no connection or common sense guide to cause a person of skill in the art to try to combine the socket connection of pierce with the structure of Bramstedt. Still further, it is not at all clear why such person skilled in the art would make that combination in a manner which would arrive at the claimed subject matter, that is, with an insert having the contact surface on one side and the jaw mounting surface on the opposite side.

In order to further highlight the patentable features of the present invention, new claims 50 and 51 have been added. Claim 50 further specifies the structure of the insert of the present invention in a manner which further cuts against the interpretation of Pierce to have a back surface opposite to the contact surface. It is believed that this claim is clearly patentable over the art of record.

Claim 51 further recites the structure of Figure 9 having an overmold to which the contact surface and back surface are fixed. Nothing in the art of record discloses or suggests this subject matter either.

Independent claims 15, 17, 19, 30, 32, 48 and 49 all recite the subject matter argues above in connection with claim 1, and are believed to be allowable based upon this argument.

Independent claims 5, 12, 13, 14, 23, 34, 38, 42 and 45 are drawn to other features of the present invention, specifically reciting certain properties of the contact

surface. It is submitted that the surfaces of the Pierce disclosed structure certainly include at least some structures which do not inherently meet the limitations of these claims. Thus, absent some further teaching, it is believed that Pierce does not teach these claims, and Bramstadt does not cure the deficiency.

In responding to arguments, the Examiner has not correctly stated the position of the application in connection with Bramstedt. The argument is not that Bramstedt could not be used to grasp tissue, but rather that a person skilled in the art would not do so based upon the teachings therein.

An earnest and through effort has been made to respond to each and every issue raised in the prior office action and to place this application in condition for allowance. If upon consideration of this response, the Examiner believes that further issues remain which could be resolved by telephone interview, the Examiner is invited to telephone the undersigned to discuss these issues.

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Response dated November 3, 2008

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This paper is accompanied by authorization of a deposit account to pay for 2 extra total claims. It is believed that no further fee is due. If any such fee is due please charge same to deposit account number 02-0184.

Respectfully submitted,
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